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EXTRAORDINARY

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 12th March, 1962:—

*BILL No. 3 OF 1962

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Twelfth Amendment) Act, 1962. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 20th day of December, 1961.

(2) It shall be deemed to have come into force on the 20th day of "THE UNION TERRITORIES", after entry, 7 the following entry shall be inserted, namely:— Amendment of the First Schedule to the Constitution.

10 "8. Goa, Daman and Diu.

The territories which immediately before the twentieth day of December, 1961 were comprised in Goa, Daman and Diu."

15 3. In article 240 of the Constitution, in clause (1), after entry (c), the following entry shall be inserted, namely:— Amendment of article 240.

"(d) Goa, Daman and Diu."

*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Lok Sabha the consideration of the Bill.

STATEMENT OF OBJECTS AND REASONS

On the acquisition of the territories of Goa, Daman and Diu with effect from the 20th December, 1961, these territories have, by virtue of sub-clause (c) of clause (3) of article 1 of the Constitution, been comprised within the territory of India from that date and they are being administered as a Union territory by the President through an Administrator in accordance with article 239 of the Constitution. It is, however, considered desirable that Goa, Daman and Diu should be specifically included as a Union territory in the First Schedule to the Constitution. It is also considered that clause (1) of article 240 should be suitably amended to confer power on the President to make regulations for the peace, progress and good government of Goa, Daman and Diu, as has been done in the case of Dadra and Nagar Haveli.

The Constitution (Twelfth Amendment) Bill, 1962 seeks to make the above mentioned provisions.

JAWAHARLAL NEHRU.

FINANCIAL MEMORANDUM

On the acquisition of the territories of Goa, Daman and Diu with effect from the 20th December, 1961, these territories have, by virtue of sub-clause (c) of clause (3) of article 1 of the Constitution, been comprised within the territory of India from that date. The Bill amending the Constitution provides for the inclusion of Goa, Daman and Diu in the First Schedule to the Constitution under the heading "Union Territories".

2. As a result of the reunion of Goa, Daman and Diu with India the receipts and expenditure of the arcas in question have been amalgamated with the Consolidated Fund of India. Estimates for the years 1961-62 and 1962-63 have been prepared. It is expected that an expenditure of Rs. 1.58 crores would be incurred during the period 20th December, 1961 to 31st March, 1962 and an expenditure of Rs. 5.28 crores would be incurred during the year 1962-63. Receipts have been estimated at Rs. 1.39 crores for the period 20th December, 1961 to 31st March, 1962 and Rs. 5.01 crores for the year 1962-63.

3. It has not been possible so far to ascertain the assets and liabilities left by the Portuguese Administration. These are being worked out.

*BILL NO. 2 OF 1962

A Bill to provide for the administration of the Union territory of Goa Daman and Diu and for matters connected therewith.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Goa, Daman and Diu (Administration) Act, 1962.

(2) It shall be deemed to have come into force on the 5th day of March, 1962. 5

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Administrator” means the Administrator of Goa, Daman and Diu appointed by the President under article 239 of the Constitution; 10

(b) “appointed day” means the twentieth day of December, 1961;

(c) “Goa, Daman and Diu” means the Union territory of Goa, Daman and Diu.

Representa-
tion in the
House of the
People.

3. (1) There shall be allotted two seats to the Union territory of Goa, Daman and Diu in the House of the People. 15

(2) In the Representation of the People Act, 1950,—

43 of 1950.

(a) in section 4, in sub-section (1), after the words “to Dadra and Nagar Haveli”, the words “to Goa, Daman and Diu” shall be inserted; 20

*The President has, in pursuance of clauses (1) and (3) of article 117 of the constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

(b) in the First Schedule,—

(i) after entry 22, the following entry shall be inserted, namely:—

“23. Goa, Daman and Diu.....2”;

5 (ii) entries 23 and 24 shall be re-numbered as entries 24 and 25 respectively.

43 of 1951.

(3) In the Representation of the People Act, 1951, in section 4, after the words “to Dadra and Nagar Haveli”, the words “to Goa, Daman and Diu” shall be inserted.

10 4. Without prejudice to the powers of the Central Government to appoint from time to time such officers and authorities as may be necessary for the administration of Goa, Daman and Diu, all judges, magistrates and other officers and authorities who, immediately before the commencement of this Act, were exercising lawful functions
15 in connection with the administration of Goa, Daman and Diu or any part thereof, shall, unless otherwise directed at any time by the Central Government in relation to any such judge, magistrate or other officer or authority, or until other provision is made by law, continue to exercise in connection with such administration their
20 respective functions in the same manner and to the same extent as before such commencement with such altered designation, if any, as that Government may determine.

Officers and
functionaries
in relation
to Goa,
Daman and
Diu.

5. (1) All laws in force immediately before the appointed day in Goa, Daman and Diu or any part thereof shall continue to be in force
25 therein until amended or repealed by a competent Legislature or other competent authority.

Continuance
of existing
laws and
their adapta-
tion.

(2) For the purpose of facilitating the application of any such law in relation to the administration of Goa, Daman and Diu as a Union territory and for the purpose of bringing the provisions of any such
30 law into accord with the provisions of the Constitution, the Central Government may, within two years from the appointed day, by order, make such adaptations and modifications, whether by way of repeal or amendment, as may be necessary or expedient and thereupon, every such law shall have effect subject to the adaptations
35 and modifications so made.

6. The Central Government may, by notification in the Official Gazette, extend with such restrictions or modifications as it thinks fit, to Goa, Daman and Diu any enactment which is in force in a State at the date of the notification.

Power to
extend en-
actments to
Goa, Daman
and Diu.

Extension of
the jurisdic-
tion of Bom-
bay High
Court to Goa,
Daman and
Diu.

7. As from such date as the Central Government may, by notification in the Official Gazette, specify, the jurisdiction of the High Court at Bombay shall extend to Goa, Daman and Diu.

Power to
construe
laws.

8. For the purpose of facilitating the application of any law in relation to Goa, Daman and Diu, any court or other authority may construe any such law in such manner not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority.

Validation of
certain ac-
tion and in-
demnity of
officers for
certain acts.

9. (1) All things done and all action taken (including any acts of executive authority, proceedings, decrees and sentences) in or with respect to Goa, Daman and Diu on or after the appointed day and before the commencement of this Act, by the Administrator or any other officer, whether civil or military, or by any other person acting under the orders of the Administrator or such officer, which have been done or taken in good faith and in a reasonable belief that they were necessary for the peace and good government of Goa, Daman and Diu shall be as valid and operative as if they had been done or taken in accordance with law.

(2) No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against the Administrator or any other officer of Government, whether civil or military, or against any other person acting under the orders of the Administrator or such other officer for, or on account of, or in respect of, anything done or any action taken in Goa, Daman and Diu or any part thereof on or after the appointed day and before the commencement of this Act which has been done or taken in good faith and in a reasonable belief that it was necessary for the peace and good government of Goa, Daman and Diu:

Provided that if any such suit or other legal proceeding has been instituted before the commencement of this Act, it shall, on such commencement, abate.

Power to re-
move diffi-
culties.

10. (1) If any difficulty arises in giving effect to the provisions of this Act or in connection with the administration of Goa, Daman and Diu, the Central Government may, by order, make such further provision as appears to it to be necessary or expedient for removing the difficulty.

(2) Any order under sub-section (1) may be made so as to be retrospective to any date not earlier than the appointed day.

Repeal and
saving.

11. (1) The Goa, Daman and Diu (Administration) Ordinance, 1962, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any of the powers conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

STATEMENT OF OBJECTS AND REASONS

On the acquisition of the territories of Goa, Daman and Diu with effect from the 20th December, 1961, these territories have, by virtue of sub-clause (c) of clause (3) of article 1 of the Constitution, been comprised within the territory of India from that date and they are being administered as a Union territory by the President through an Administrator in accordance with article 239 of the Constitution.

2. It was necessary to take immediately certain consequential measures in regard to the administration of Goa, Daman and Diu, as for example, continuance of existing laws and provision of indemnity to the Administrator and his subordinates against action taken by them in good faith. These proposals have to be given effect to by a law of Parliament. As Parliament was not in session and as it was considered necessary to take immediate action, the Goa, Daman and Diu (Administration) Ordinance, 1962 (No. 2 of 1962) was promulgated to provide for these administrative measures.

3. The present Bill seeks to replace the Ordinance by an Act of Parliament. It seeks to make provisions relating to the appointment of officers, continuance of existing laws until amended or repealed, extension of enactments in force in a State to Goa, Daman and Diu and also to make provisions for indemnity to the Administrator and his officers against action taken by them in good faith. The Bill further provides for the representation of the Union territory of Goa, Daman and Diu in the Lok Sabha and for the extension of the jurisdiction of the High Court at Bombay to that Union territory.

JAWAHARLAL NEHRU.

FINANCIAL MEMORANDUM

On the acquisition of the territories of Goa, Daman and Diu with effect from the 20th December, 1961, these territories have, by virtue of sub-clause (c) of clause (3) of article 1 of the Constitution, been comprised within the territory of India from that date. The Bill providing for the administration of the Union territory of Goa, Daman and Diu seeks to make necessary provisions relating to the appointment of officers, the continuance of existing laws and their modification, the extension of Indian laws to Goa, Daman and Diu, etc.

2. As a result of the reunion of Goa, Daman and Diu with India, the receipts and expenditure of the areas in question have been amalgamated with the Consolidated Fund of India. Estimates for the year 1961-62 and 1962-63 have been prepared. It is expected that an expenditure of Rs. 1·58 crores would be incurred during the period 20th December, 1961 to 31st March, 1962 and an expenditure of Rs. 5·28 crores would be incurred during the year 1962-63. Receipts have been estimated at Rs. 1·39 crores for the period 20th December, 1961 to 31st March, 1962 and Rs. 5·01 crores for the year 1962-63.

3. It has not been possible so far to ascertain the assets and liabilities left by the Portuguese Administration. These are being worked out.

BILL No. 1 OF 1962

A Bill to amend the Advocates Act, 1961.

BE it enacted by Parliament in the Thirteenth year of the Republic of India as follows:—

1. This Act may be called the Advocates (Amendment) Act, 1962. Short title.

25 of 1961. 5 2. In paragraph (ii) of the proviso to clause (d) of sub-section (1) Amendment of section 24. of section 24 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), for the words "is a member", the words "is or has been a member" shall be substituted.

3. In section 54 of the principal Act, the words "nominated and", Amendment of section 54. shall be omitted.

10 4. In the principal Act, after section 57, the following sections Insertion of new sections 58 and 59. shall be, and shall be deemed always to have been, inserted, namely:—

15 "58. (1) Where a State Bar Council has not been constituted Special provisions during the transitional period. under this Act or where a State Bar Council so constituted is unable to perform its functions by reason of any order of a court or otherwise, the functions of that Bar Council or of any Committee thereof, in so far as they relate to the admission and enrolment of advocates, shall be performed by the High Court in accordance with the provisions of this Act.

20 (2) Until Chapter IV comes into force, a State Bar Council or a High Court performing the functions of a State Bar Council may enrol any person to be an advocate on a State roll, if he is qualified to be so enrolled under this Act, notwithstanding that

no rules have been made under section 28 or that the rules so made have not been approved by the Bar Council of India, and every person so enrolled shall, until that Chapter comes into force, be entitled to all the rights of practice conferred on an advocate under section 14 of the Indian Bar Councils Act, 1926. 5 38 of 1926.

(3) Notwithstanding anything contained in this Act, every person who, immediately before the 1st day of December, 1961, was an advocate on the roll of any High Court under the Indian Bar Councils Act, 1926 or who has been enrolled as an advocate under this Act shall, until Chapter IV comes into force, be entitled as of right to practise in the Supreme Court, subject to the rules made by the Supreme Court in this behalf. 38 of 1926.

(4) Notwithstanding the repeal by sub-section (2) of section 50 of the provisions of the Legal Practitioners Act, 1879 or of the Bombay Pleaders Act, 1920, relating to the admission and enrolment of legal practitioners, the provisions of those Acts and any rules made thereunder in so far as they relate to the issue and renewal of a certificate to a legal practitioner authorising him to practise shall have effect until Chapter IV comes into force and, accordingly, every certificate issued or renewed to a legal practitioner (who is not enrolled as an advocate under this Act) which is or purports to be issued or renewed under the provisions of either of the aforesaid Acts during the period beginning with the 1st day of December, 1961 and ending with the date on which Chapter IV comes into force, shall be deemed to have been validly issued or renewed. 18 of 1879. 15 Bombay Act XVII of 1920

Removal of difficulties.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty. 30

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the 1st day of December, 1961." 35

Repeal of Ordinance of 1962.

5. (1) The Advocates (Amendment) Ordinance, 1962 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 24th day of January, 1962. 40

STATEMENT OF OBJECTS AND REASONS

The Advocates Act, 1961 provides for an autonomous Bar Council in each State and an All India Bar Council consisting mainly of the representatives of the State Bar Councils. Under the Act, a State Bar Council is to enrol qualified persons as advocates and prepare a roll of advocates practising in the State and thereafter a common roll of advocates for the whole of India is to be prepared by the Bar Council of India. The Advocates whose names are entered in the common roll would be entitled as of right to practise in all the courts in India including the Supreme Court.

2. Provision was made in the Act for its enforcement piece-meal and Chapters I, II and VII which provide for the constitution of Bar Councils and certain transitional measures were brought into force on the 16th August, 1961. It was expected that all the Bar Councils would be constituted by December, 1961 and a common roll would be prepared soon thereafter. On that expectation, Chapter III which relates to the admission and enrolment of advocates was brought into force on the 1st December, 1961. The expectation has not however been realised. One of the State Bar Councils is yet to be constituted and the Bar Council of India could not therefore be formed.

3. The delay in the constitution of Bar Councils and the preparation of the common roll has created certain difficulties. Where a State Bar Council has not been constituted there is no authority to enrol qualified persons as advocates and even where such a Council has been constituted it cannot function effectively in the absence of proper rules which require the previous approval of the All India Bar Council. Moreover, even when a person is enrolled as an advocate on a State roll, he will not be entitled to practise until his name is entered in the common roll and Chapter IV is brought into force.

4. Difficulties, therefore, arose in the enrolment of proper persons as advocates and in conferring on them the right to practise. Since sections 6 and 7 of the Legal Practitioners Act, 1879 stood repealed from the 1st December, 1961 when Chapter III was brought into force, doubts arose whether the certificate to a pleader or a mukhtar could be issued or renewed after that date. These unforeseen difficulties were causing unintended hardship to certain persons and it was considered necessary to take immediate action to amend the Advocates Act, 1961 by promulgating an Ordinance. The Advocates (Amendment)

Ordinance was accordingly promulgated on the 24th January, 1962 for making suitable transitional provisions to overcome the difficulties which arose in the working of the Act. This Bill seeks merely to replace the Ordinance by an Act of Parliament. Opportunity has been taken to make certain minor drafting changes in the Advocates Act.

NEW DELHI;

A. K. SEN.

The 20th February, 1962.

M. N. KAUL,

Secretary.

